

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BRANDON CHE LEE,)
)
Plaintiff,)
)
-vs-) Case No. CIV-16-0991-F
)
FEDERAL TRANSFER CENTER, et al.,)
)
Defendants.)

CORRECTED ORDER¹

Magistrate Judge Bernard M. Jones issued a Report and Recommendation in this action brought by plaintiff Brandon Che Lee alleging violations of plaintiff's constitutional rights under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). Doc. no. 12 (the Report).

The Report concludes that plaintiff's action should be dismissed without prejudice to refiling, and that plaintiff's application for leave to proceed in forma pauperis (doc. no. 11) should either be stricken as deficient or denied as moot. The Report also recommends that the dismissal count as a strike pursuant to 28 U.S.C. §1915(g).

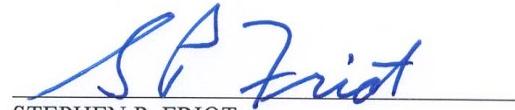
Plaintiff objects to the Report (doc. no. 18), arguing that he has been unduly detained under a fake judgment and commitment order.

¹The order at doc. no. 19 is vacated, and this Corrected Order is substituted under Rule 60(a), Fed. R. Civ. P. The correction is necessary because, having stricken the motion for in forma pauperis status, the court declines to find that the dismissal should count as a strike. This Corrected Order does not find that the dismissal counts as a strike, and to the extent that the Report recommended such a finding, that particular recommendation is not adopted.

All objected to matters have been reviewed *de novo*. The arguments raised by the plaintiff in his objection are adequately addressed in the Report. Having completed its review, the court finds that no purpose would be served by any additional analysis here.

Plaintiff's objection to the Report is **DENIED**. The Report and Recommendation of the Magistrate Judge is **ACCEPTED, ADOPTED** and **AFFIRMED**, with one exception. The court does not adopt the Magistrate Judge's recommendation that the dismissal count as a strike. As recommended in the Report, this action is **DISMISSED** without prejudice, and plaintiff's application for leave to proceed in forma pauperis is **STRICKEN** as deficient.

Dated this 17th day of November, 2016.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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